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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/068,679

02/05/2002

David Kent

24756

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28624

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12/20/2002

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EXAMINER

ELKINS, GARY E

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,679

Applicant(s)

KENT, DAVID

Examiner

Gary E. Elkins

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 3, 4, and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, "said at least one third aperture" lacks antecedent basis in the claims. It is assumed, for the purpose of applying the prior art that claim 2 was the intended dependency. However, correction is required.

In claim 4, "fourth apertures" is unclear insofar as no third apertures were previously set forth.

In claim 8, line 9, "form" appears to be misspelled.

In claim 10, line 2, "the intersection of said end walls and said bottom wall" is unclear in that a plurality of end walls would have a plurality of intersections with the bottom wall. Also, it is unclear how one fourth aperture could be formed at a plurality of separate intersections.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Blomfield et al. Blomfield et al discloses a carton blank and container including a stacking tab formed by a bridging section (6) and a plurality of apertures (2) in the bottom wall. The apertures in the

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bottom wall are structured so that they are capable of or adapted to receive stacking tabs from another container. No distinction is seen between the blank and container claimed and that shown in Blomfield et al as a result of the claimed intended stacking configurations.

4. Claim 11 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith (figs. 10 and 11 emb).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blomfield et al in view of Smith. Blomfield et al discloses all structure of the claimed blank and container except provision of an end wall aperture capable of receiving a stacking tab from another container when stacked. Smith teaches that it is known to make a container with both side and end wall apertures to facilitate stacking of containers in offset or interlocking fashion. It would have been obvious to make the container and blank of Blomfield et al with an aperture between the end wall and the bottom wall as taught by Smith to facilitate offset stacking of containers to distribute the stacking load to multiple containers and to interlock the containers against movement laterally.

7. Claims 2, 3, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blomfield et al in view of Wilson. Blomfield et al discloses all structure of the claimed blank and container except provision of end wall apertures capable of receiving a stacking tab from

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another container when stacked. Wilson teaches that it is known to make a container with both side and end wall apertures to facilitate stacking of containers in offset or interlocking fashion. It would have been obvious to make the container and blank of Blomfield et al with apertures between an end wall and the bottom wall as taught by Smith to facilitate offset stacking of containers to distribute the stacking load to multiple containers and to interlock the containers against movement laterally.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses in Office Actions directly into the Group at (703)305-3579, 3580, 3588, or 3590. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the Examiner.

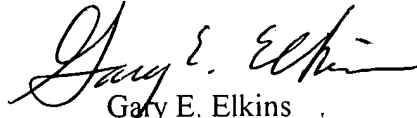
If in receiving this Office Action, it is apparent that certain documents are missing, e.g. copies of references cited, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703)306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703)308-1078.

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (703)308-1034. The Examiner can normally be reached Monday through Thursday.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Lee Young can be reached at (703)308-2572.



Gary E. Elkins
Primary Examiner
Art Unit 3727

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14 December 2002